

## NEU Guidance for Reps and Local Officers

***This briefing looks at violence issues in schools and colleges, in particular how this should be tackled by employers, and also considers the related issue of pupil behaviour.***

### ***Violence in Schools and Colleges***

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In *Violence at Work: A Guide for Employers*<sup>1</sup> the Health and Safety Executive (HSE) defines workplace violence as: 'any incident in which a person is abused, threatened or assaulted in circumstances relating to their work'. The HSE goes on to say:

'This can include verbal abuse or threats as well as physical attacks. Physical attacks can cause anxiety and distress, and in more serious cases, pain, disability or even death. Serious and persistent verbal abuse may damage worker's health through anxiety and distress. In addition, worry about violence at work, even in workers who do not directly experience it, can be a source of stress'.

#### **> The Scale of the Problem**

The HSE lists those that work in education as one of the occupational groups most at risk from workplace violence. The table below shows the risk of violence at work for employees, reproduced from the 2016-17 Crime Survey for England and Wales (CSEW)<sup>2</sup>. The results show that teaching and education professionals have a higher than average rate of violence at work.

Across all groups, teachers have the 8<sup>th</sup> highest level of violence at work, out of 25 occupational areas. This indicates that the level of violence against teachers is higher than in a number of occupational groups including sales and customer service occupations and skilled trades.

#### **% of victims, once or more**

#### **2016/17 CSEW**

	<b>Assaults</b>	<b>Threats</b>	<b>All violence at work</b>
Teaching and education professionals	0.9	0.7	1.4
<b>All professional occupations</b>	<b>0.7</b>	<b>0.8</b>	<b>1.4</b>
<b>All occupations</b>	<b>0.6</b>	<b>0.8</b>	<b>1.3</b>

#### **> Further data on violence towards teachers and staff**

A survey by the Association of Teachers and Lecturers in 2016 found that 40% of teachers had experienced violence from pupils in the past year. Of those who had been subjected to violence, nearly 80% said they had been pushed and around half had been kicked or had an object thrown at them.

Freedom of Information (FOI) requests submitted to local authorities in Wales by NEU Cymru in January 2017 found that there was on average 8 assaults a day on teachers in schools in Wales.

FOI requests submitted in 2013 found that there were over 4000 assaults on teachers working in schools in London in the five years previous.

<sup>1</sup> Available at <http://www.hse.gov.uk/pubns/indq69.pdf>

<sup>2</sup> See <http://www.hse.gov.uk/Statistics/causinj/violence/index.htm>

DfE figures for 2014-2015 show that there were 20,770 exclusions for violence against an adult and 52,710 exclusions for verbal abuse or threatening behaviour against an adult during that year.

A 2009 European study demonstrated that the risk of psychological harm to teachers is not confined to the UK. 'While physical risks are low in the education sector, exposure to psychological risks is high. Exposure to threats of physical violence and actual acts of violence from colleagues and non-colleagues is highly prevalent in the education sector'<sup>3</sup>.

### > **Violence and abuse in schools and colleges - The legal framework**

The Health and Safety at Work etc. Act 1974 places a duty on employers to ensure, so far as is reasonably practicable, the health of their employees at work. This includes taking steps to make sure they do not suffer violence, abuse or stress-related illness as a result of their work. This statutory regime supplements the 'common law' obligations on employers to provide reasonably safe working environments for their employees. Employers also have a specific duty under the Management of Health and Safety at Work Regulations 1999 to undertake risk assessments that seek to identify and eliminate or reduce risks to their employees' health, safety and welfare. Employers are legally required to consult their employees and their elected representatives about health and safety arrangements, including their procedures for preventing and monitoring violent incidents.

The HSE has published guidance 'Violence at Work: A guide for employers' which may also be useful for safety representatives and employees. Although not specific to schools and colleges, the guide acknowledges that education is one of the most at risk sectors for experiencing violence at work. The term violence refers to verbal abuse and threats as well as physical violence. The guidance sets out a number of steps which can assist with the effective management of violence which involves carrying out a risk assessment, is available at <http://www.hse.gov.uk/pubns/indg69.pdf>.

Appendix 1 contains further information on legal remedies for violence or abuse against members of the school/college community.

### > **Taking action on violence, abuse and assaults in schools and colleges**

The incidence of violence and assaults on teaching staff - in addition to the stress arising from working in environments where the fear of violence and assaults exists - are both examples of risks to teacher health, safety and welfare which must be assessed and controlled.

Local authorities, governing bodies, academy trusts and all other employers of teachers must:

- consider the risk of violence and assault on members of their workforce;
- consider the risk of stress which arises from working in fear of violence or assault;
- take steps to remove the risk; or
- where removal of the risk is not possible, reduce the risk by any necessary changes in working practices or by introducing appropriate protective or supportive measures.

**These steps should be addressed via a risk assessment. The risk assessment must be kept under review and updated as necessary.** Employers should also monitor the effectiveness of control measures by monitoring incident rates and through engagement with the work force and their trade union safety representatives.

The HSE has [detailed guidance](#) for employers on how to undertake a workplace violence risk assessment.

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<sup>3</sup> European Foundation for the improvement of living and working conditions (2009)

## ***Violent incidents involving adults from the wider community***

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Comprehensive advice on dealing with the risk of violence from outside the premises, such as that perpetrated or threatened by parents or other adults from the wider community, can be found in the archived [DfE publication](#) 'A legal toolkit for schools - Tackling abuse, threats and violence towards members of the school community'. It is important to note that as this is archived content, it may not reflect current Government policy.

The toolkit provides advice on;

- legal remedies available to schools, colleges and employers to combat this problem;
- risk assessments;
- police-school protocols;
- the reporting of violent incidents; and
- the formulation of school/college policies and procedures designed to tackle incidents involving abusive, threatening or violent adult visitors.

## ***Violence involving pupils***

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### ➤ **Managing pupil behaviour**

The DfE has [guidance](#) on managing pupil behaviour in schools. This includes 'use of reasonable force in schools, 'managing behaviour and bullying in schools case studies' and 'behaviour and discipline in schools'.

The NEU has issued guidance on health and safety issues for teachers and staff undertaking home visits, including how to avoid the risk of violence, and what to do if an incident occurs. (See NEU guidance on lone working at <https://neu.org.uk/>).

### • **Individual pupil behaviour risk assessments**

The measures set out in the guidance above details the ways in which poor pupil behaviour can be tackled through the use of codes of conduct and their accompanying sanctions, including exclusion.

Violent or intimidating pupil behaviour can also be addressed through appropriate health and safety measures in which the risk to staff and pupils of injury and psychological distress can be managed and controlled. Individual pupil risk assessments can be useful in such situations. Comprehensive NEU guidance on individual pupil behaviour risk assessment is available in the health and safety section of the website.

If problems arise, whether at school/college or employer level, in satisfactorily implementing suitable risk management strategies for tackling violent or intimidating pupil behaviour, in the first instance, members should contact the NEU Adviceline (in England) on 0345 811 811 , NEU Cymru in Wales on 029 2046 5000 or NEU Northern Ireland on 028 9078 2020.

### • **Incidents in the school/college vicinity**

Consideration should also be given to the risk of violent incidents occurring not directly on the premises, but in the wider vicinity, and potentially involving members of the school/college community. For instance, schools and colleges, particularly in inner city areas, are known to have been affected by knife crime injuries or deaths, often in close proximity to the site. The risk assessment should consider the possibility of such incidents occurring, and whether violent events have previously occurred in the wider community. Reducing the risk of knife crime and violent incidents in the community is likely to involve coordinated behaviour with external agencies such as the police, charities and youth groups and the wider community in general. Schools and colleges should be clear about where their remit ends and begins; for instance, it is not the role of staff to

monitor public areas outside of the school/college vicinity. If there are concerns about criminal or dangerous activity taking place, the police should be contacted.

If a tragic incident, such as one involving knife crime, does impact the school/college, the following steps should be considered in the aftermath, in order to support pupils, parents and staff:

- Initially, a rapid response meeting between the school/college and police should be convened – this is particularly important if there is a continuing risk, for instance if the perpetrator is still at large.
- Counselling should be provided to the whole school/college community (staff, pupils and parents) in the immediate aftermath and ongoing as required. Some larger schools and colleges employ counsellors permanently and this assists with the provision of support, should a crisis occur.
- Speakers and organisations should be invited into the school/college to take assemblies, provide training etc. for pupils, in order to deglorify knife crime.
- **Sexual assaults**

The risk assessment should also consider whether there is a risk of sexual assault and harassment against teachers and staff. Sexual harassment is defined as unwanted conduct that violates an individual's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment. Such harassment could take the form of unwanted verbal, non-verbal or physical conduct of a sexual nature.

As part of their risk assessment, the employer must assess the risk towards staff of sexual assaults and harassment from members of the school/college community, including employees, pupils, parents and visitors to the premises, and put measures in place to reduce or remove these risks.

If an employee is experiencing any unwanted conduct, even if they are unsure whether it constitutes harassment, it should be reported to the employer at the earliest opportunity. There should be clear procedures for reporting assaults of a sexual nature, and offensive pupil behaviour should be dealt with under the relevant discipline procedure. Further NEU self-help guidance on sexual harassment is available on the NEU website.

### ***Note on data protection***

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Staff involved in the drawing up of individual pupil risk assessments should be mindful of the *Education (Pupil Information) (England) Regulations 2005* which place a duty on schools to disclose, with a few exceptions, the contents of pupil records to parents and pupils where they make such a request.

### ***Dealing with violent incidents***

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It is essential that suitable arrangements are in place to ensure an adequate response to a violent incident. This includes:

- First aid and other emergency medical treatment required by any injured party;
- The provision of appropriate emotional support – such as counselling – for those directly or indirectly affected by such events; and that
- The necessary administrative and legal procedures are fulfilled, including the proper reporting of the incident.

#### **➤ Employer policies on violence, abuse and assaults**

The HSE states that all employers should have clear policies and procedures that set out how they will prevent, manage and respond to work related violence. The NEU has produced a model policy for employers which sets out how they should respond to violence and assaults in schools/colleges. It addresses issues such as: the employer's legal responsibilities; risk assessment; reporting procedures; dealing with weapons; assaults by pupils and support for victims. Where a

school/college or employer does not have an equivalent policy, NEU reps and local officers should encourage the implementation of this model policy.

### ➤ Reporting incidents of violence and abuse

**All accidents and injuries should be reported, no matter how trivial they might appear.** This is as true of verbal abuse as it is of physical assault, as the psychological harm which can follow such incidents can lead to very real illness and mental distress for those who are unfortunate enough to experience them.

The HSE advises that records of violent behaviour and assaults should include the following:

- A record in the incident reporting system
- A note of what happened, when and who was involved
- Details of any circumstances that staff think could have contributed to the incident.

The HSE and TUC advise that employers should prepare a specific form for reporting instances of violence and abuse, both physical and verbal. The NEU model violence in schools and colleges policy contains a reporting form, which is specific to educational premises (it is available in the health and safety section of the NEU website).

Additionally, the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) require that employers must inform the HSE of the following:

- All accidents to employees results in deaths or '[specified injuries](#)';
- All accidents which result in an employee being off work due to injuries for more than seven days; and
- All accidents to non-employees which result in them being killed or taken to hospital and which are connected with work.

The definition of accidents includes assaults so that injuries resulting from assaults are also reportable. The NEU is particularly concerned that these are reported to the HSE and recorded by the employer whenever necessary.

Furthermore, any violence or abuse in relation to a protected characteristic (age, disability, gender reassignment, race, religion or belief, sex and sexual orientation) may constitute illegal harassment under the Equality Act 2010. Detailed NEU guidance on harassment is available in the self-help section of the NEU website.

Following any incident involving violence or assault, risk assessments should also be reviewed in the light of the incident, to identify whether additional measures are necessary. Further advice on all these matters can be found in the NEU briefings on accidents and injuries, and risk assessments (available in the health and safety section of the NEU website).

The following HSE guidance might also be helpful:

[Incident reporting in schools - guidance for employers.](#)  
[HSE RIDDOR website](#)  
[HSE guidance on risk assessments](#)

### ***Safer School Partnerships***

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Safer School Partnerships (SSPs) arose from a joint initiative between the DfE, the Home Office, the Youth Justice Board and the Association of Chief Police Officers. The SSP initiative aims to provide structured ways in which schools can work with the local police force to achieve the following aims:

- To reduce the prevalence of crime and victimisation amongst young people.
- To enhance the learning environment via a safe and secure school community.
- To help young people achieve their full educational potential
- To engage young people, challenge poor behaviour and build mutual respect within the school community.

SSP arrangements can include police officers with a responsibility for liaising with and visiting groups of local schools, for instance to deliver training and assemblies.

The intention of introducing SSPs was to coordinate the various agencies, including the schools, employer and police, work together to develop a protocol based on shared principles and clearly setting out roles and responsibilities of the various partners in the initiative. In 2009, there were around 450 SSPs in place, with approximately 5000 schools involved in such schemes. However, cuts to the police in recent years have had an impact on the availability of SSPs, and it is likely that fewer partnerships are now in operation.

### ***Further guidance***

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**NEU guidance** – all available on the NEU website, <https://neu.org.uk/>.

School security  
Risk assessment  
Individual pupil risk assessment  
Lone working  
Pupil behaviour

### **DfE archived guidance**

*Note that the content on the National Archives site may not reflect current Government policy. All statutory guidance and legislation published on this site continues to reflect the current legal position unless indicated otherwise.*

[School Security: Dealing with Troublemakers](#)  
[Safe School: A legal toolkit for schools](#)

### **HSE guidance**

[Preventing workplace harassment and violence](#)

**The Suzy Lamplugh Trust** - <http://www.suzylamplugh.org/>

**The Arson Prevention Forum** - <http://www.stoparsonuk.org/>

## **Appendix 1 - Legal remedies for violence or abuse against members of the school community: summary of DfE advice**

As well as invoking section 547 of the Education Act 1996, the following two vehicles may be used by a LA on a school's behalf.

### **Section 222 Local Government Act 1972**

Section 222 empowers a local authority to prosecute or defend proceedings where it is considered expedient for promoting or protecting the interests of those living in its area. It would potentially allow the local authority to prosecute an abusive parent under one of the other options mentioned here or, alternatively, to bring civil proceedings against the parent.

### **Criminal Behaviour Orders**

These orders were introduced by the Government in the 'Anti-social Behaviour, Crime and Policing Act 2014' and replaced the previous ASBO (Anti-Social Behaviour Order).

Under the Criminal Behaviour Order (CBO) system, the prosecution can apply for an order when a person is convicted of any criminal offence, in any criminal court. It is usually the Crown Prosecution Service that makes the application, but this can be at the request of the Police or a Local Authority. If issued a CBO can prevent the individual from doing something (prohibitions) and/or require them to do something, with the aim of reducing their anti-social behaviour (requirements). It is a criminal offence to breach the order, with a maximum sentence of up to 5 years in custody.

Other remedies are available under civil and criminal law. These are as follows:

### **Protection from Harassment Act 1997 (Amended 2012)**

More informally described as anti-stalking legislation, although not only used for that purpose. This action can be taken either through criminal prosecution or a private action for damages in the Civil Courts. It can be done on behalf of an individual, or a group (e.g. a group of children or teaching staff). The sanctions include both criminal penalties (fines, imprisonment, or community sentences) and a restraining order, which is a flexible order which prohibits the offender from continuing their offending behaviour. For example, it could prevent a parent from coming within a certain distance of a school, or from making phone calls to the school or a teacher's home. The restraining order can last for as long as the Court thinks appropriate.

### **Injunctions**

These can be granted by a court to ban somebody from school premises. Generally they are viewed as less flexible and more expensive than alternatives such as a restraining order granted under the Protection from Harassment Act 1997, described above.

### **Criminal Damage Act 1971**

Under this, if a parent or carer destroys or damages property belonging to the school, or to a teacher, he or she can be prosecuted for causing criminal damage. If the value of the damage is below £5,000, the case is tried in the Magistrates' Court, where the penalty is a fine up to £2,500 or up to three months imprisonment or both. If the damage is above £5,000, the case can be tried in the Magistrates' Court or the Crown Court. The penalty in the Magistrates' Court is a fine up to £5,000 or not more than six months imprisonment, or both. In the Crown Court, the penalty is an unlimited fine or ten years imprisonment, or both. Where the criminal damage is committed with intent to endanger life, the maximum period of imprisonment is life. This includes cases of arson with the same degree of intent. There is a racially aggravated form, which carries higher maximum penalties (Crime and Disorder Act 1998, section 30).

### **Common Assault**

Where a member of staff is assaulted by a parent or carer and minor injury is caused, the parent or carer may be charged with common assault in accordance with **section 39** of the **Criminal Justice Act 1988**. This can only be tried in the Magistrates' Court. Where there is a racial element to the offence, the parent or carer may be charged with the offence of racially aggravated assault contrary to section 29 of the Crime and Disorder Act 1998. This can be tried either in the Magistrates' Court



or the Crown Court. The maximum penalty for common assault is a fine of up to £5,000, or six months imprisonment, or both. The maximum penalty for racially aggravated assault is six months imprisonment or a fine up to £5,000, or both, in the Magistrates' Court. In the Crown Court it is an unlimited fine, or two years imprisonment, or both.

### **Assault Occasioning Actual Bodily Harm**

Under **section 47** of the **Offences Against the Persons Act 1861**, a parent or carer can be charged with assault occasioning actual bodily harm where more serious injury is caused to a member of staff (such as broken teeth, extensive bruising or cuts requiring medical treatment). Again, there is a racially aggravated form of the offence. The first form is triable either way. In the Magistrates' Court, the maximum penalty is six months imprisonment, or a fine up to £5,000, or both. In the Crown Court, the maximum penalty is five years imprisonment. For the racially aggravated offence, the maximum sentence is the same in the Magistrates' Court. In the Crown Court, the maximum sentence is seven years, an unlimited fine or both.

### **Offences under the Public Order Act 1986**

There are four separate relevant offences under this Act. The behaviour that they criminalise has some overlap with the Protection from Harassment Act, but unlike that Act, one incident alone is sufficient to constitute a public order offence. Three of them (**sections 5, 4A and 4**) are heard within the Magistrates' Court.

**Section 5** is the lower level of public disorder where a parent or carer causes a disturbance in or outside the school and causes alarm, harassment or distress.

**Section 4A** creates an intentional form of this offence.

**Section 4** is more serious, where there is a fear or provocation of violence. The maximum sentence for section 5 is a fine up to £1,000. The maximum sentence for section 4 or 4A is a term of imprisonment not exceeding six months or a fine up to £5,000 or both. There is also a racially aggravated version of all three of the above offences, under **section 31** of the **Crime and Disorder Act 1998**, with higher maximum penalties.

**Section 3** of the Act, affray, may be tried either in the Magistrates' Court or the Crown Court. This offence is committed when a person uses or threatens unlawful violence such as would cause a reasonable person to fear for his safety; the threat cannot be made by the use of words alone. In the Magistrates' Court, the maximum penalty is six months, a fine up to £5,000, or both. In the Crown Court, the maximum sentence is three years, an unlimited fine or both.

In the circumstances outlined above, although the employer (LA, Academy Trust etc.) may not have the relevant power to take action itself, it should work with the school to provide staff with full support in ensuring that action will be pursued against an alleged offender, under the above legislation as appropriate.

### **Criminal Justice Act 1988**

**Section 139A** of the Act (as amended by the Offensive Weapons Act 1996) makes it an offence to carry an offensive weapon or knife on school premises. Under **section 139B** a police officer may enter a school and search for a weapon; where one is found they may seize and retain it. A person who has a weapon on school premises will be guilty of an offence, unless he can prove a statutory defence. The maximum penalty on conviction on indictment for carrying a knife is two years imprisonment or an unlimited fine or both. The maximum penalty on conviction on indictment for carrying an offensive weapon is four years imprisonment or an unlimited fine or both. The weapons which are caught under section 139A and 139B include any article made or adapted for use for causing injury and any article which has a blade or is sharply pointed. A folding pocket knife with a blade less than 3 inches long is, however, excepted although this does not prevent schools and colleges from imposing their own bans on pupils carrying them.



In general, where a school suspects a weapon to be on school premises the police should be called. Where the police have reasonable grounds for suspecting a weapon to be on a school or college's premises they can enter without permission from the school/college.

### **Non statutory remedies**

Aside from the legal remedies, there are other strategies that can help in preventing conflicts with parents or stopping them escalating. These include mediation and conflict resolution. Schools and colleges might also be able to develop non-statutory Acceptable Behaviour Contracts for some parents similar to those that have been developed by the Metropolitan Police mainly in respect of pupils. These require the agreement of the person to an acceptable level of behaviour.